99TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPT. 99-471
Part 1

TELECOMMUNICATIONS TRADE ACT OF 1986

FEBRUARY 6, 1986.—Ordered to be printed

Mr. DINGELL, from the Committee on Energy and Commerce, submitted the following

REPORT

MAR 17 1986
U. S. GOVT. PUBS.
DEPOSITORY 372

together with

ADDITIONAL AND SUPPLEMENTAL VIEWS

[To accompany H.R. 3131]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 3131) to identify and reduce barriers to, and distortions of, international trade affecting United States suppliers of telecommunications equipment and services in interstate and foreign commerce, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Telecommunications Trade Act of 1986".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.

TITLE I—ACTIONS NOT REQUIRING PRESIDENTIAL DETERMINATION

Sec. 101. Procurement by providers of international satellite facilities.
Sec. 102. Telecommunications equipment certification.

TITLE II—ACTIONS REQUIRING PRESIDENTIAL DETERMINATION

Sec. 201. Finding by the Secretary.
Sec. 202. Presidential determination.

71-006 O

READEX FICHE best copy available

41.1/8:

Sec. 203. Federal Communications Commission implementation.
Sec. 204. Circumstances under which action not required.
Sec. 205. Action under this Act not exclusive.
Sec. 206. Report.
Sec. 207. Monitoring of effect of actions.
Sec. 208. Authority to take telecommunications market access enforcement actions.
Sec. 209. Effective date.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) trade in telecommunications equipment and services is one of the fastest growing areas of world trade and is expected to reach $700,000,000,000 by 1993;

(2) the United States balance of trade in telecommunications equipment has deteriorated significantly in recent years, falling from a surplus of nearly $1,000,000,000 in 1980 to a deficit in 1984 of more than $600,000,000;

(3) the United States deficit in telecommunications equipment trade is the result of an increase in imports into the United States market for telecommunications equipment that greatly exceeds the increases in exports by United States suppliers of telecommunications equipment;

(4) the increase in imports into the United States market by foreign suppliers of telecommunications equipment is in part a result of the open nature of the United States telecommunications market;

(5) the recent decline in the rate of growth of United States exports in telecommunications equipment is in part a result of barriers to exports of telecommunications equipment and services from the United States that are characterized by pervasive government intervention (including restrictive practices governing market access and governmental favoritism of indigenous foreign suppliers);

(6) open and unrestricted access to foreign telecommunications markets by United States telecommunications suppliers is necessary and critical for the continued economic health, growth, and international competitiveness of the United States telecommunications industry and to the sustained growth and expansion of the United States economy;

(7) the provision of universal telephone service at reasonable rates for all Americans is closely linked to the continued economic growth of the domestic telecommunications industry;

(8) the continued economic growth and international competitiveness of the United States telecommunications industry is important and vital to—

(A) the long-term research and development projects and programs of the United States telecommunications industry,

(B) the rapid development and introduction into the marketplace of new and innovative telecommunications equipment and services for American residential and business telecommunications users,

(C) the development of efficient, reliable, and state-of-the-art telecommunications networks to serve the needs of American telecommunications consumers, and

(D) the maximizing of employment opportunities for United States workers in the telecommunications industry;

(9) while negotiations should be continued, significant efforts have been made and some progress has been achieved by United States negotiators to open the Japanese telecommunications market to United States suppliers of telecommunications equipment and services;

(10) significant efforts to open other foreign telecommunications markets to United States suppliers must be given equal priority by the United States;

(11) negotiated access to foreign telecommunications markets for United States telecommunications suppliers should be the means to achieve increased exports in telecommunications equipment and services;

(12) United States policies should be directed to opening up foreign markets and not the closing of domestic United States markets; and

(13) unless negotiations between the United States and a country to achieve open market access in that foreign country for United States telecommunications suppliers are successful, the United States should take action to restrict open access to the United States telecommunications market to foreign suppliers of that country as a means of achieving an open global market for telecommunications trade.

(b) PURPOSE.—The purpose of this Act is to identify and eliminate barriers to, and distortions of, international trade affecting United States suppliers of telecommuni-

cations equipment and services in interstate and foreign commerce, which will increase employment opportunities in the United States telecommunications market.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) The term "foreign country" means a foreign country or a political subdivision, a dependent territory, or a possession of a foreign country, and includes an association of two or more foreign countries, political subdivisions, dependent territories, or possessions of foreign countries forming a customs union outside the United States.

(2) The term "foreign supplier" means—

(A) any legal entity the headquarters, or the primary control or operations, of which are located or based in a foreign country,

(B) any citizen or national of a foreign country, or

(C) any department, agency, or other government-operated or government-controlled organization of a foreign country,

that is engaged, in whole or part, in the business of providing telecommunications equipment or services; except that such term does not include the providing of telecommunciations equipment manufactured in the United States.

(3) The term "equivalent telecommunications market access" means the opportunities for the exportation from the United States of telecommunciations equipment and services to a foreign country are substantially equivalent to the opportunities under which foreign suppliers of that country can compete in the provision of telecommunications equipment and services in the United States, as measured by the extent of barriers for entry and participation in the telecommunications market.

(4) The term "telecommunications market access enforcement action" means any action—

(A) which restricts or denies the provision of telecommunications equipment in the United States by foreign suppliers, or establishes terms and conditions on the providing of such equipment in the United States by such suppliers; and

(B) which is within the authority of the Commission under the Communications Act of 1934 (whether or not the Commission is otherwise exercising such authority) or under section 208 of this Act.

(5) The term "Secretary" means the Secretary of Commerce.

(6) The term "Commission" means the Federal Communications Commission.

(7) The term "telecommunications equipment" means—

(A) equipment (i) which is primarily designed for use in providing or receiving telephone service and (ii) which the Commission has authority to regulate (in whole or in part) under the Communications Act of 1934 (whether or not the Commission is otherwise exercising such authority), or

(B) equipment (i) which is used in providing telecommunications services and equipment and (ii) to which the authorizations or registration provisions of part 2, 15, or 68 of title 47, Code of Federal Regulations, apply.

(8) The term "telephone service" means—

(A) telephone exchange service and telephone interexchange service provided by a carrier (including service of any dedicated unswitched line), or

(B) service provided by any person (other than a carrier) to any other person or persons if such service is comparable to any such service provided by a carrier, as determined by the Commission.

(9) The term "provider of international satellite facilities" means any person who makes available, on a common carrier or private contract basis, space segment facilities for transmissions or communications between any point in the United States and any point outside the United States, other than an incidental transborder transmission or communication.

TITLE I—ACTIONS NOT REQUIRING PRESIDENTIAL DETERMINATION

SEC. 101. PROCUREMENT BY PROVIDERS OF INTERNATIONAL SATELLITE FACILITIES.

(a) REQUIRED FILINGS OF OPERATING AGREEMENTS BY PROVIDERS OF INTERNATIONAL SATELLITE FACILITIES.—Any construction permit, license, or operating authority awarded (before, on, or after the date of enactment of this section) by the Commission to any provider of international satellite facilities for any such facility shall be subject to the conditions that—

(1) the provider will file with the Commission any operating agreements entered into by such provider with any foreign entity; and

(2) the Commission may reconsider the award of such permit or authority if such agreement contains satellite procurement restrictions.

(b) RECONSIDERATION OF PERMITS AND OPERATING AUTHORITY.—If, on the basis of an agreement filed pursuant to paragraph (1), the Commission finds that it has awarded a permit, license, or authority to a provider of international satellite facilities that has entered into an operating agreement that contains satellite procurement restrictions imposed by a foreign government, the Commission shall reconsider the permit, license, or authority previously awarded.

(c) FACTORS IN RECONSIDERATION.—In any reconsideration of a permit, license, or operating authority pursuant to subsection (b), the Commission shall determine whether such permit, license, or operating authority is in the public interest, taking into account the impacts of any agreement described in subsection (b) and of the satellite facility on—

(1) foreign policy,

(2) national defense and security,

(3) exports from the United States of telecommunications services and equipment, and

(4) the ability of United States companies to participate in worldwide commerce through use of international satellite telecommunications facilities.

(d) COMPLIANCE WITH COMMISSION RULES AND PROCEDURES.—Any reconsideration of a permit, license, or operating authority pursuant to subsection (b) shall be conducted in accordance with the rules and policies of the Commission.

(e) CONSULTATION.—In making the public interest determination under subsection (c), the Commission shall consult with the Secretary of State, the Secretary of Commerce, and the Secretary of Defense, or their designees.

(f) TREATMENT OF FILED AGREEMENTS.—Any agreement filed under this section that is confidential shall, for purposes of section 552 of title 5, United States Code, be treated as commercial information that is obtained from a person and that is privileged and confidential.

SEC. 102. TELECOMMUNICATIONS EQUIPMENT CERTIFICATION.

(a) PURPOSE.—The purpose of this section is to promote equivalent telecommunications market access by providing for a fair and effective method of certification regarding compliance of telecommunications equipment with such standards as the Commission has established or may establish under the Communications Act of 1934 that takes into account the compliance methods in use where such equipment is manufactured.

(b) DECLARATION REQUIRED FOR TELECOMMUNICATIONS IMPORTS.—(1) In the case of any telecommunications equipment the manufacturing or assembly of which occurs on or after March 1, 1987, in a foreign country, any certification of compliance with the standards and procedures established by the Commission under the Communications Act of 1934 for such equipment shall not be complete unless it is accompanied by—

(A) a declaration that such foreign country, in applying its standards to any telecommunications equipment manufactured or assembled in the United States and exported for entry to such foreign country for sale or distribution, accepts certification that the equipment conforms to each of such standards—

(i) without any testing, inspection, or reporting requirements for the equipment as a condition of its sale or distribution in excess of the testing, inspection, or reporting required by the United States for comparable equipment; and

(ii) under procedures which impose no greater burden than is experienced under the standards and procedures established by the Commission under the Communications Act of 1934; or

(B) in the absence of such declaration, a verification by the Commission that the equipment complies with the standards and procedures established by the Commission under such Act.

(2) If the Commission, in consultation with the Secretary, determines that there is probable cause to believe that a declaration made under paragraph (1) was, at the time made, not accurate, or that a change in circumstance has rendered such certification inaccurate, the Commission may require verification of the equipment concerned in accordance with paragraph (3).

(3) If a verification by the Commission is required under paragraph (1)(B) or (2), such verification shall be made under a designated type approval system—

(A) which is established by the Commission, in consultation with the Secretary, and which is approximately comparable to the system in use by the country in which the manufacturing or assembly occurs for assessing whether tele-

communications equipment manufactured or assembled in the United States and exported for entry to such country conforms to all of its applicable standards; and

(B) the administrative costs of which shall be recovered by such fees as the Commission may reasonably establish.

(4) Verification of equipment in accordance with paragraph (3) shall not be required with respect to a foreign country if, within 60 days after a Commission action under paragraph (2), the Secretary finds (after public notice and an opportunity for a pubic hearing) that the benefits of access to the telecommunications market of such country by United States suppliers (under conditions that do not permit a valid declaration under paragraph (1)(A)) outweigh the burdens on United States suppliers of compliance with the requirements of such country.

(5) A finding under paragraph (4) shall cease to be effective unless renewed by the Secretary at least once each two years. The Secretary is not required to review such finding if the Commission has withdrawn the verification requirement.

(c) EXEMPTION FOR EQUIPMENT FOR WHICH FOREIGN MARKET NOT SUBSTANTIAL.—Subsection (b) shall not apply to telecommuncations equipment manufactured or assembled in a foreign country if a determination by the Commission, in consultation with the Secretary, is in effect that the potential market in such foreign country for United States telecommunications equipment is not, and will not be, substantial.

(d) COLLECTION AND USE OF FEES.—(1) The rate of any fee established under subsection (b)(3)(B) during any calendar year shall be fixed by the Commission before the beginning of such year.

(2) Fees collected under such subsection shall be available, to the extent provided in advance by an appropriation Act, for use by the Commission for administering the designated type approval systems established under subsection (b)(3).

(e) DEFINITION.—For purposes of this section, the term "designated type approval system" means a method of verifying compliance with telecommunciations standards under which one or more pieces of telecommunications equipment of the type in question are evaluated by or on behalf of the Commission by testing, inspection, test data review, or other method.

TITLE II—ACTIONS REQUIRING PRESIDENTIAL DETERMINATION

SEC. 201. FINDING BY THE SECRETARY.

(a) MANDATORY INVESTIGATION BY SECRETARY.—(1) Within 30 days after the effective date of this title, the Secretary shall initiate an investigation to identify those foreign countries that are denying equivalent telecommunications market access. In carrying out the investigation, the Secretary may exclude any foreign country if the Secretary considers that the potential market in that country for United States telecommunications equipment and services is not, and will not be, substantial.

(2) In carrying out the investigation under paragraph (1), the Secretary shall—

(A) publish notice of the investigation in the Federal Register;

(B) provide opportunity for the presentation of views concerning the issues, including a public hearing within the 30-day period after the date of publication of notice under subparagraph (A); and

(C) consult with other appropriate Federal agencies and the appropriate committees of Congress.

(3) In carrying out the investigation to determine whether equivalent telecommunications market access is denied, the Secretary shall evaluate the extent to which United States manufacturers of international telecommunications satellite equipment are precluded from supplying such equipment by reason of procurement restrictions imposed by a foreign government on providers of international satellite facilities. The Secretary shall transmit the results of the evaluation to the Commission and such results may be considered by the Commission in actions taken under section 101 of this Act with respect to any provider of international satellite facilities.

(b) INITIATION OF INVESTIGATIONS BY PETITION.—(1)(A) Except as provided in subparagraph (B), any interested person may file a petition requesting the Secretary to make a finding regarding whether a foreign country is denying equivalent telecommunications market access.

(B) A petition may not be filed under subparagraph (A) within the 6-month period beginning on the effective date of this title.

(2) Not later than 45 days after receiving a petition under paragraph (1), the Secretary shall—

(A) review the allegations in the petition; and

(B) on the basis of that review, decide whether to initiate an investigation under subsection (c).

(3) If the Secretary decides not to initiate an investigation with respect to a petition filed under paragraph (1), the Secretary shall—

(A) on the same day, submit to the petitioner, each House of Congress, and any appropriate Federal advisory committee a detailed explanation of the reasons therefor; and

(B) within 10 days after the date on which the explanations are submitted under subparagraph (A), publish notice of the decision, together with a summary of those reasons, in the Federal Register.

(c) INVESTIGATION AFTER PETITION.—If the Secretary decides to initiate an investigation with respect to a petition under subsection (b)(2), the Secretary shall—

(1) immediately publish notice of the decision in the Fededal Register, together with the text of the petition;

(2) provide opportunity for the presentation of views concerning the issues, including a public hearing within the 30-day period after the date of publication of notice under paragraph (1) or on a date after that period agreed to by the petitioner; and

(3) promptly commence an investigation to find if the circumstances described in subsection (b)(1) exists.

During the investigation, the Secretary shall consult with other appropriate Federal agencies and the appropriate committees of Congress.

(d) PRELIMINARY FINDINGS.—Within 60 days after the date on which notice is published under subsection (a)(2)(A) or (c)(1), as the case may be, the Secretary shall make a preliminary finding regarding the investigation and shall publish notice of that determination in the Federal Register together with—

(1) the reasons for the preliminary finding;

(2) if that finding is affirmative, preliminary recommendations for enforcement actions to be determined by the President under section 202(a); and

(3) an invitation to interested parties to submit comments, during the 60-day period after the date of publication, regarding the preliminary finding and the matters referred to in paragraphs (1) and (2).

(e) FINAL FINDING.—Within 120 days after the date on which notice is published under subsection (a)(2)(A) or (c)(1), as the case may be, and after taking into account all comments submitted in response to the invitation published under subsection (d)(3), the Secretary shall—

(1) make a final finding regarding the investigation;

(2) if that finding is affirmative, develop final recommendations for actions to be determined by the President under section 202(a); and

(3) immediately submit to the President, and publish in the Federal Register, notice of the determination and all recommendations developed under paragraph (2).

(f) FACTORS TO BE CONSIDERED.—In finding under subsection (d) or (e) whether a foreign country is denying equivalent telecommunications market access, the Secretary shall assess—

(1) the competitiveness of the prices of telecommunications equipment and services sold by United States suppliers in the foreign country, and their marketing efforts in such country;

(2) the success of United States suppliers in providing telecommunications equipment and services in the foreign country, measured in comparison to their relative success in competing in other foreign countries; and in the United States, for like equipment and services; and

(3) the impact on employment in the United States telecommunications industry.

(g) EFFECT OF FINDING.—The denial by a foreign country of equivalent telecommunications market access shall be considered as unjustifiable, unreasonable, or discriminatory and a burden or restriction on United States commerce.

SEC. 202. PRESIDENTIAL DETERMINATION.

(a) MARKET ACCESS ENFORCEMENT ACTIONS.—Except as provided in section 204, if the Secretary makes a final affirmative finding under section 201(e)(1) that a foreign country is denying equivalent telecommunications market access for telecommunications equipment, telecommunications services, or both, the President, notwithstanding any other provision of law, must, within 60 days after the day on which notice of that determination is submitted to the President under section 201(e)(3), determine one or more telecommunications market access enforcement actions that the President considers necessary or appropriate to achieve equivalent telecom-

munications market access. The President shall notify the Commission of such action, and direct the Commission to implement such action.

(b) AVOIDANCE OF NECSSSITY FOR ENFORCEMENT ACTIONS.—For the purposes of avoiding the necessity for imposing a market access enforcement action (or an alternative remedy described in section 204), the President should seek to obtain equivalent telecommunications market access for United States suppliers through direct negotiation with the foreign country concerned. In determining the necessity and appropriateness of a market access enforcement action, the President shall take into account the results of any such negotiations.

SEC. 203. FEDERAL COMMUNICATIONS COMMISSION IMPLEMENTATION.

(a) GENERAL RULE.—The Commission shall, by rule or order, implement any telecommunications market access enforcement action which the President determines under section 202(a) to be necessary or appropriate to achieve equivalent telecommunications market access.

(b) PROCEDURE.—The Commission shall implement such action within 30 days after the President's determination regarding such action and, before such date, shall provide public notice and an opportunity for a public hearing.

SEC. 204. CIRCUMSTANCES UNDER WHICH ACTION NOT REQUIRED.

Sections 202(a) and 203 shall not apply in the case of the foreign suppliers of a foreign country if the President, during the 60-day period referred to in section 202(a), takes one or more of the following actions under subsection (b) or (c) (or both) of section 301 of the Trade Act of 1974 in order to achieve equivalent telecommunications market access in that country:

(1) Suspends, withdraws, or prevents the application of, or refrains from proclaiming, benefits of trade agreement concessions to carry out a trade agreement with that country.

(2) Imposes duties or other import restrictions on the telecommunications equipment of, or fees or restrictions on the telecommunications services of, that country.

(3) Restricts the terms and conditions of telecommunications sector access authorizations for foreign suppliers of that country.

(4) Denies the issuance of such authorization to foreign suppliers of that country.

SEC. 205. ACTION UNDER THIS ACT NOT EXCLUSIVE.

The taking of an action under sections 202(a) and 203 with respect to the foreign suppliers of any foreign country to achieve equivalent telecommunications market access may not be treated as limiting, to any extent, the authority of the President to take additional action under any other law to achieve such equivalent access.

SEC. 206. REPORT.

If the President determines any action is necessary or appropriate under section 202(a), the President promptly shall inform Congress of that action, together with an explanation of the objectives to be achieved by it, and have notice of the action published in the Federal Register. If an action to be taken by the President—

(1) differs from an action recommended by the Secretary under section 201(e)(2); or

(2) was not recommended under that section;

the President shall include in the notice a statement of the reasons for the difference or for taking an action that was not recommended.

SEC. 207. MONITORING OF EFFECT OF ACTIONS.

(a) MONITORING AND SUBSEQUENT ACTION.—After taking any action pursuant to section 203, the Secretary shall annually review the effect of the action and determine whether the action is achieving equivalent telecommunications market access as well as its effects on interstate or foreign commerce and report to the President and the Congress. If the President decides that the action—

(1) has resulted in equivalent telecommunications market access, the President may suspend or modify the application of an action under section 203; or

(2) is not achieving its objective, the President may take further action under sections 202(a) and 203 (without regard to the time limitations contained therein) as the President considers necessary or appropriate.

(b) NOTIFICATION.—The President shall—

(1) notify each House of the Congress of the results of each review made under subsection (a) and include in that notification an explanation of each suspension, modification, or further action, as the case may be, implemented under paragraph (1) or (2) of that subection; and

(2) promptly publish notice of each such suspension, modification, or further action in the Federal Register.

(c) REVIEW OF MARKETS OF COUNTRIES EXCLUDED.—The Secretary shall annually review the potential market for United States telecommunications equipment and services in countries which have been excluded under section 201(a). The Secretary shall initiate an investigation under section 201(a) regarding any such country if the Secretary considers it to have a market for United States telecommunications equipment and services which is or will be substantial.

SEC. 208. AUTHORITY TO TAKE TELECOMMUNICATIONS MARKET ACCESS ENFORCEMENT ACTIONS.

(a) AUTHORITY TO IMPLEMENT PRESIDENTIAL DETERMINATIONS.—The Commission has authority to implement any action which restricts or denies the provision of telecommunications equipment in the United States by foreign suppliers, or establishes terms and conditions on the providing of such equipment in the United States by such suppliers, and which the President determines to be necessary or appropriate under this Act.

(b) REGULATIONS.—Not later than 9 months after the date of the enactment of this title, the Commission shall issue regulations setting forth procedures—

(1) which the Commission shall use in implementing any such Presidential determination, and

(2) to the extent practicable, which shall be consistent with the procedures generally applicable under the Communications Act of 1934.

(c) ACTIONS AVAILABLE.—The Commission may, in such regulations, identify specific types of telecommunications market access enforcement actions which may be available to the President. Nothing in this subsection shall be construed to limit the discretion of the President to the actions specified in such regulations.

SEC. 209. EFFECTIVE DATE.

This title takes effect on July 1, 1986, except that sections 202(b) and 208(b) take effect on the date of enactment of this Act.

CONTENTS

	Page
The Amendment	1
Purpose and Summary	9
Background and Need for the Legislation	10
Telecommunications Equipment	10
Japan	12
Canada	12
Europe	13
International Satellites	13
Telecommunications Services	13
Conclusion	15
Hearings	15
Committee Consideration	16
Committee Oversight Findings	16
Committee on Government Operations	17
Committee Cost Estimate	17
Congressional Budget Office Estimate	17
Inflationary Impact Statement	18
Section-by-Section Analysis	18
Sec. 1. Short title and table of contents	18
Sec. 2. Findings and purposes	19
Sec. 3. Definitions	20
Title I—Actions Not Requiring Presidential Determination	22
Sec. 101. Procurement by providers of international satellite facilities	22
Sec. 102. Telecommunications equipment certification	23
Title II—Actions Requiring Presidential Determination	25
Sec. 201. Finding by the Secretary	25
Sec. 202. Presidential determination	27
Sec. 203. Federal Communications Commission implementation	28
Sec. 204. Circumstances under which action not required	28
Sec. 205. Action under this act not exclusive	28
Sec. 206. Report	28
Sec. 207. Monitoring the effect of actions	28

Page

Sec. 208. Authority to take telecommunications market access enforcement actions 29
Sec. 209. Effective date 29
Additional Views of Rep. Thomas J. Tauke and Rep. Al Swift 30
Supplemental Views of Rep. Matthew J. Rinaldo 34

Purpose and Summary

The Telecommunications Trade Act of 1986 is designed to open foreign markets to U.S. telecommunications equipment and service suppliers rather than closing or inhibiting competition in the domestic American markets.

The bill is divided into two titles each containing measures designed to open foreign markets. The measures in Title I, which relate to telecommunications equipment certification practices and procurement of international satellite facilities, do not require a prior investigation by the Secretary of Commerce or a prior Presidential determination of harm before implementation. Title II contains measures requiring such an investigation and Presidential determination. Recognizing that negotiations are the most desirable method of achieving open access to foreign markets, the bill provides for a sufficient period of time during which negotiations could go forward before the remedial actions in Title II are imposed.

The legislation is aimed at achieving access to foreign markets on a level that is equivalent to the access afforded the foreign suppliers in the U.S. Foreign governments are not, however, required to have a market structure that is the mirror image of the American market. Instead, they must provide "substantially" equivalent access to U.S. suppliers.

While much attention has recently been focused upon the trade imbalance with Japan, the bill does not focus upon one market. Instead, it recognizes that efforts must be made in a number of foreign markets (including Western Europe and Canada, as well as Japan) that currently characterized by pervasive government intervention that impedes the access of American telecommunications suppliers. Moreover, the bill covers both equipment designed for use in providing or receiving telephone service and services such as the resale of private lines. By including services, U.S. service providers will be able to gain access to telephone lines for purpose of reselling them as part of a value-added network or some other value-added service offering.

Title I requires the Federal Communications Commission to adopt a fair and effective method of certification regarding compliance of foreign telecommunications equipment with Commission standards. Title I also requires the Commission to reconsider the license of any provider of international satellite facilities who signs an operating agreement with a foreign country that contains procurement restrictions that deny equivalent market access to U.S. suppliers.

Negotiations are the preferred course to open foreign markets to U.S. suppliers. However, Title II provides that if the Secretary of Commerce determines that a country is denying equivalent access, then the President must take remedial measures to open the foreign market. Title II requires the President to direct the Federal

Communications Commission (FCC) to take action which restricts or denies access to foreign suppliers of the foreign country. However, if the President takes meaningful action under the Trade Act of 1974 such as imposing duties or import restrictions he would not be required to implement a sanction through the FCC. The President retains full flexibility in shaping the remedial measures imposed under Title II.

Background and Need for the Legislation

Among the fastest growing areas of the international economy is the telecommunications equipment and services market. As of 1984, this sector of commerce amounted to nearly $325 billion and is estimated to reach $539 billion by 1990—growth of over 8 percent annually.

The regulation of telecommunications equipment and services provided by both foreign and U.S. firms in the domestic U.S. market is a major area of the Committee's jurisdiction. The Committee is greatly concerned that the increasing access that foreign firms have gained to our domestic telecommunications market has not been not matched by substantially equivalent market opportunities for U.S. equipment producers and service providers abroad. This imbalance threatens the trade competitiveness of the U.S. telecommunications industry.

TELECOMMUNICATIONS EQUIPMENT

The United States balance of trade in telecommunications equipment has deteriorated significantly in recent years—from a surplus of almost $1 billion in 1980 to a deficit of over $600 million in 1984. For the first three quarters of 1985, the U.S. trade deficit in telecommunications has reached $1.013 billion. Forecasts for 1985 indicate that the deficit will be about $1.1 billion.

Between 1980 and 1984 imports of telecommunications equipment to the U.S. rose 166 percent while American exports in this sector of the economy increased just 40 percent. Specifically, imports from Japan increased by nearly 250 percent while U.S. exports to that country increased by about a half that amount. Imports from Europe increased 90 percent while American exports to those nations only increased by 3 percent.

Moreover, for the first time in history, Japan has become the leading exporter of telecommunications equipment, capturing almost 21 percent of the world market in 1984. The United States fell to second place with about 12.7 percent of the market.

In addition to losing our position as dominant exporter in this area, the U.S. has experienced a higher rate of telecommunications imports than many other nations. Imports accounting for about 10.5 percent of American telecommunications consumption in 1983 while Japan imported only 1.4 percent of its equipment. Likewise, Canada and Europe imported just 8 and 6 percent, respectively.

The leading exporters of the world's telecommunications equipment are now the East Asian countries. In 1983, 75 percent of telecommunications imports to the United States came from the Far East—39 percent from Japan, 18 percent from Taiwan, 13 percent

from Hong Kong, and the balance from Singapore, Malaysia and Korea.

The Committee believes that this deterioration in our telecommunications trade position is largely the result of two factors: barriers in foreign telecommunications markets—which prevent U.S. suppliers from exporting to foreign countries—and deregulatory changes in the U.S. domestic market, including the restructuring of AT&T—which allow foreign suppliers to sell freely in the U.S. market. These factors, among others, make the international telecommunications market unique.

The American telecommunications industry is the technological leader in the international telecommunications equipment market. Its products are of the highest quality and are available at competitive prices. Despite this technological lead, the United States exports only about 10 percent of its production, while accounting for nearly 40 percent of the global consumption in telecommunications. Japan, on the other hand, with less than 10 percent of the global consumption, exports about 22 percent of its production. Canada and Europe export about 21 and 19 percent, respectively.

U.S. telecommunications trade difficulties are not caused by any competitive weakness of U.S. industry. The problem relates largely to the imbalance between the openness of the U.S. markets and the lack of comparable openness in foreign markets.

The U.S. telecommunications market is by far the largest in the world, constituting nearly half of the global market in telecommunications. As a result of a number of deregulatory decisions, foreign businesses are now able to compete vigorously in the U.S. telecommunications market. Foreign multinational corporations have seized this opportunity and have quickly penetrated the U.S. market. This rapid increase of foreign suppliers in the American market starkly contrasts with the very slow progress of U.S. companies abroad.

Foreign markets in the industrialized nations remain largely closed to U.S. telecommunications products, reflecting factors such as the strong preference of foreign post and telecommunications authorities for their own home suppliers, "buy national" industrial policies, and a variety of tariff and nontariff barriers. Purchasers in the market outside the United States are largely controlled by government procurements through government owned and operated Ministries of Posts and Telecommunications. Government procurements of telecommunications equipment account for almost 60 percent of the $33.8 billion equipment market outside of the U.S. Foreign governments have the ability and the willingness to use their procurement leverage to foster their national telecommunications industries to the exclusion of competitors such as United States suppliers.

Privatization and deregulatory initiatives have resulted in some progress toward providing access by U.S. telecommunications suppliers to markets in countries such as Britain and Japan. Yet, these measures have still not resulted in fully open and competitive markets.

JAPAN

Japan accounts for this country's largest bilateral trade deficit in telecommunications equipment. For this reason, U.S. negotiating efforts aimed at achieving greater market access for U.S. firms abroad have largely been concentrated on Japan. In 1985, U.S. officials became concerned that proposed new Japanese certification procedures for customer premises equipment (CPE), developed in conjunction with the restructuring of the Japanese telecommunications market, would reduce the access of U.S. firms to the Japanese telecommunications market. However, following an intensive negotiating effort, Japan agreed to new certification procedures for CPE which more closely resemble those used by the United States. However, it is still too soon to evaluate the impact these certification procedures will have—in practice—on U.S. suppliers.

Nippon Telephone and Telegraph (NTT), the Japanese government's telecommunications monopoly, still procures virtually all of its mainline telecommunications products from Japanese producers. The Committee hopes that NTT, in its procurement of mainline telecommunications equipment, will afford substantially equivalent access to U.S. suppliers. The Committee intends to monitor progress in this area.

The ability of U.S. suppliers to penetrate the Japanese telecommunications market is not only limited by current NTT procurement practices. In addition, Japanese procedures with respect to radio communications equipment certification, licensing for services, and frequency allocation have had the effect of impeding the sale of U.S. products. Government-wide attention and effort by the U.S. has resulted in recent progress in resolving these problems. Nevertheless, firms account for only about 2 percent of Japan's $4 billion telecommunications equipment market.

The telecommunications market access problem confronted by U.S. firms is not limited to Japan—it is global in scope. While Japan has at least made a commitment, in a bilateral agreement, to the principle of nondiscriminatory procurement of telecommunications equipment, other major U.S. trading partners have made no such commitment and, in fact, expressly exclude their Ministries of Posts and telecommunications (PTTs) from coverage under the Procurement Code which was negotiated during the last round of multilateral trade negotiations under the General Agreements on Tariffs and Trade (GATT).

CANADA

In Canada, the major telecommunications equipment manufacturer is controlled by Bell Canada, the largest provider of telecommunications services, which has a policy of favoring its subsidiary in its procurement of equipment. Moreover, Canadian tariffs on telecommunications equipment are substantially higher than those in the U.S. These factors substantially limit U.S. producers' opportunities in this market, which represents over $1.5 billion in sales annually.

EUROPE

The $17 billion European telecommunications market—the largest in the world outside the U.S.—is largely closed to U.S. products, particularly mainline equipment, because of restrictive procurement policies of the individual national PTTs. In some cases, such as France, government authorities have deliberately utilized preferential procurement as a mechanism for creating international competitive advantage for their national producers.

INTERNATIONAL SATELLITES

The use of procurement for industrial policy purposes poses a potential danger in the market for international telecommunications facilities. Traditionally, the various types of international telecommunications facilities which exist are jointly owned, either through Intelsat or through a consortium of carriers owning transoceanic cables. This sharing arrangement recognizes the joint nature of international telecommunications, which generally requires the cooperation of carriers to function. This ownership arrangement may not be the case with regard to the new alternative satellite systems. As of now, the new systems are almost exclusively owned by U.S. citizens. Even though international telecommunications is usually in the form of a joint venture, it is not clear how the financial arrangements for these systems will evolve.

The Committee is not attempting to deter independent business judgment nor to replace it with the judgment of the FCC, particularly as to ownership or shared participation. On the contrary, the Committee is attempting to establish an environment in which the operators of new systems may fully exercise their own business judgment.

Nevertheless, there is an ongoing concern about the potential opportunity to unfairly pressure the new systems to favor foreign manufacturers. This concern was first raised as potential retaliation for U.S authorization of separate systems.

Some foreign governments have made international telecommunications equipment and services targets of their industrial policies. The Committee is concerned that these governments might restrict the procurement options of providers of international telecommunications facilities in order to advance these industrial policies. The Committee joins the Administration and the Commission in condemning these unfair trade practices, to the extent that they occur, and has adopted measures in this bill to ensure that the U.S. satellite industry will have a fair opportunity to supply international telecommunications facilities.

TELECOMMUNICATIONS SERVICES

In addition to trade in telecommunications equipment, trade in telecommunications services has become an increasingly important component of U.S. international trade and has the potential to be a major American export commodity. The world market for telecommunications services in 1984 reached about $265 billion and is estimated to grow to $444 billion by 1990, a growth of over 9 percent annually.

Not only have telecommunications services become an increasingly important aspect of U.S. international trade as a commodity for export, but these services are also essential to effective participation in foreign markets by almost every other U.S. industry. Without reliable, reasonably-priced communications, U.S. firms would find themselves at a severe competitive disadvantage in the world economy, largely unable to transact business with their trading partners.

Clearly, the information industry—a multibillion dollar industry which includes a wide array of services ranging from timesharing to movies and other entertainment programming to mail and telex—is becoming an increasingly important component of U.S. exports. Currently there are nearly 400 information suppliers that provide direct access to records through telephone lines and a computer terminal. Several American firms have begun marketing these services abroad, offering information such as stock quotations and up-to-date news. It is estimated that U.S. electronic data base service providers had 1984 revenues of nearly $1.5 billion, and firms providing remote data processing services are estimated to have had revenues of about $6 billion that same year.

Moreover, broadcasting entities such as Turner, ESPN, HBO, WOLD and the three networks may increase their use of international communications facilities to exchange sports, information, and entertainment programming between the United States and other countries. Other users could transmit newspapers, magazines and similar information to various foreign locations for printing and distributions.

With respect to broadcasting, there currently appears to be trade barriers relating to the treatment of American radio and television signals by Canada in particular. Examples of these barriers are Canadian denial of tax deductions to businesses which place advertising on U.S. broadcasting stations; limits upon the amount of U.S. programming which Canadian stations may broadcast; Canadian governmental authorization of the for-profit interception and redistribution by Canadian satellite of U.S. television signals without the consent of, or compensation to, the U.S. stations and other affected copyright holders; and the unauthorized, uncompensated microwave distribution of U.S. border television signals, sometimes with alterations of deletions, in areas of Canada beyond the stations' over-the-air coverage. The Committee believes that the Canadian government should take appropriate steps to eliminate these barriers.

Among the services upon which U.S. firms rely in the conduct of international business is telex, a service that uses dedicated communications lines to transmit data. Sharp increases in telex rates have adversely affected both providers and users of this service. The Committee expects the FCC to obtain the necessary information (which the Committee assumes the industry will provide in a timely and forthright manner), and to allocate sufficient resources to complete expeditiously its pending investigation into special access tariffs for telex. The Committee believes it would be inappropriate and undesirable for additional, substantial increases in the rates for telex to be allowed to become effective before the Commis-

sion concludes a thorough investigation as to the cost justification and reasonableness of the rates.

Given the importance of international communications, both as a component of our international trade and as a vital infrastructure for other internationally important industries, the Committee expects the FCC to respond to any unfair trade practices of any foreign government relating to the ability of U.S. international carriers to provide international telecommunications services.

The Committee is aware of past attempts by foreign PTTs to require U.S. international carriers to accept unfavorable terms and conditions in order to obtain operating agreements. The Committee is concerned that these ministries might use their monopoly power to force U.S. international carriers to route a portion of their traffic into and out of the U.S. over their own foreign international satellite systems as a condition of obtaining an operating agreement. The Committee urges the Commission and the President to use their existing authority and the authority granted under this bill to prevent these abuses.

CONCLUSION

The technological leadership of the domestic U.S. telecommunications industry means that there is no need to impose measures to protect the industry in its home market. Rather, the industry requires mechanisms by which to gain access to foreign telecommunications markets.

The Committee recognizes that the strength of the U.S. dollar—which simultaneously increases prices of our exports and decreases prices of our imports—has had an impact on the U.S. telecommunications trade deficits and on the ability of U.S. businesses to compete abroad. The Committee is also aware that American telecommunications companies must recognize that the former domestic market has been transformed into a larger, global market, and they must engage in more extensive marketing efforts if they are going to cope with this new reality. However, despite these other contributing factors, the Committee is convinced that foreign barriers to entry are a major component of the telecommunications trade problem.

The Committee does not intend H.R. 3131 merely to send our trading partners a signal. Rather, the reported bill would establish a framework within which the opportunity for U.S. suppliers to compete in the international telecommunications market shall be greatly increased, or new conditions governing foreign access and participation in our own domestic market will be implemented.

H.R. 3131 contains the necessary statutory authority and requirements to ensure that action restricting foreign access to the U.S. market will be taken unless U.S. firms obtain meaningful market access abroad.

HEARINGS

The Committee's Subcommittee on Telecommunications, Consumer Protection and Finance held one day of general hearings on telecommunications trade on March 27, 1985. Testimony was received from Robert S. Strauss, former United States Trade Repre-

sentative; Frederick Bergsten, Director, Institute for International Economics; Howard D. Samuel, President, Industrial Union Department, AFL–CIO; John Yochelson, Director of International Business and Economics, Center for Strategic and International Studies, Georgetown University; William G. Moore, Jr., Chairman of the Board, American Electronics Association; Eric I. Garfinckel, representing the Communications Industry Association of Japan and Allen R. Frischkorn, Jr., Chairman, International Trade Committee of the Information and Telecommunications Group, Electronic Industries Association.

In addition, the Subcommittee on Commerce, Transportation and Tourism held a similar hearing on March 28, 1985. Testimony was received from the Honorable Lionel H. Olmer, Undersecretary for International Trade, Department of Commerce; C. Travis Marshall, Corporate Vice President, Motorola Inc.; Michael Borrus, Deputy Director, Berkeley Roundtable on the International Economy, University of California; John Morgan, Assistant to Executive Vice President, Legislation-Government Agencies, Communication Workers of America; and Robert B. Wood, Research Director, International Brotherhood of Electrical Workers.

The Committee's Subcommittee on Commerce, Transportation, and Tourism; and the Subcommittee on Telecommunications, Consumer Protection and Finance held one day of joint hearings on H.R. 3131 on October 1, 1985. Testimony was received from Hon. S. Bruce Smart, Undersecretary for International Trade, U.S. Department of Commerce; Bruce Wilson, Assistant U.S. Trade Representative; John Hinds, Vice President, AT&T International Inc.; Yong Tuck Lee, President, M/A–COM MAC, Inc.; John J. McDonnell, Vice President, Electronic Industries Association; Edwin B. Spievack, President, North American Telecommunications Association; Stanton D. Anderson, Anderson, Hibey, Nauheim and Blair; William O'Connor, President, Executone, Inc.; Barbara Easterling, Executive Vice President, Communications Workers of America; and Robert B. Wood, Research Director, International Brotherhood of Electrical Workers.

Committee Consideration

On October 2, 1985, the Subcommittee on Commerce, Transportation and Tourism met in open session and ordered reported the bill H.R. 3131, as amended, by a voice vote, a quorum being present. On October 3, 1985, the Subcommittee on Telecommunications, Consumer Protection and Finance met in open session and ordered reported the bill H.R. 3131, as amended, by a voice vote, a quorum being present. On November 21, 1985, the Committee met in open session and ordered reported the bill H.R. 3131 as amended by a recorded vote of 33 to 0, a quorum being present.

Committee Oversight Findings

Pursuant to clause 2(l)(3)(A) of Rule XI of the Rules of the House of Representatives, the Subcommittees held oversight hearings and made findings that are reflected in the legislative report.

COMMITTEE ON GOVERNMENT OPERATIONS

Pursuant to clause 2(l)(3)(D) of Rules XI of the Rules of the House of Representatives, no oversight findings have been submitted to the Committee by the Committee on Government Operations.

COMMITTEE COST ESTIMATE

In compliance with clause 7(a) of Rule XIII of the Rules of the House of Representatives, the Committee believes that the market access studies required of the Secretary of Commerce would cost about $130,000 over the fiscal years 1986 and 1987. Since the bill allows the FCC to charge fees to cover the costs of the verification requirement in the bill. The Committee expects that the bill would impose no net costs to the Commission.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 13, 1985.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 3131, the Telecommunications Trade Act of 1985, as ordered reported by the House Committee on Energy and Commerce, November 21, 1985.

The purpose of the bill is to reduce barriers that U.S. firms face in telecommunications markets. Currently, the Federal Communications Commission (FCC) certifies whether foreign telecommunications equipment complies with FCC standards. The bill would require that certification of equipment manufactured in a foreign country after February 28, 1987, include a declaration by that country that it will accept U.S. equipment under similar standards. Absent such a declaration, the FCC would be required to verify, through testing or other means, whether that country's equipment complies with FCC standards. The bill directs that the administrative costs of conducting verifications be recovered through fees established by the FCC.

The bill would also require the Secretary of Commerce to identify those foreign countries that deny U.S. firms equivalent access to telecommunications markets, taking into account the competitiveness of prices of U.S. equipment, the success of U.S. suppliers in marketing their equipment, and the impact on employment in the U.S. telecommunications industry. If the Secretary finds that a foreign country denies equivalent access to U.S. firms, the President would be required to take action to promote market access. The FCC would be responsible for implementing such action. To the extent that such action would affect dutiable imports of telecommunications products, it could cause an increase or decrease in customs duties collections. Because it is uncertain what measures would be taken, CBO is unable at this time to estimate the revenue effect of this bill.

Based on information from the Department of Commerce, we estimate that the market access studies would cost about $130,000 over the fiscal years 1986 and 1987. We cannot at this time estimate the annual costs that would be incurred by the FCC as a result of the verification requirement in the bill. But since the bill would allow the FCC to charge fees to cover these costs, we expect that the verification provision would result in no net cost to the federal government.

Enactment of this bill would not affect the budgets of state or local governments.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

JAMES BLUM
(For Rudolph G. Penner, Director).

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)4) of rule XI of the Rules of the House of Representatives, the committee makes the following statement with regard to the inflationary impact of the reported bill:

There is no inflationary impact associated with the enactment of H.R. 3131.

SECTION-BY-SECTION ANALYSIS

Sec. 1—Short title and table of contents

(a) The bill is titled the "Telecommunications Trade Act of 1986."

(b) The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.

TITLE I—ACTIONS NOT REQUIRING PRESIDENTIAL DETERMINATION

Sec. 101. Procurement by providers of international satellite facilities.
Sec. 102. Telecommunications equipment certification.

TITLE II—ACTIONS REQUIRING PRESIDENTIAL DETERMINATION

Sec. 201. Finding by the Secretary.
Sec. 202. Presidential determination.
Sec. 203. Federal Communications Commission implementation.
Sec. 204. Circumstances under which action not required.
Sec. 205. Action under this Act not exclusive.
Sec. 206. Report.
Sec. 207. Monitoring of effect of actions.
Sec. 208. Authority to take telecommunications market access enforcement actions.
Sec. 209. Effective date.

Sec. 2—Findings and purposes

(a) Findings

While telecommunications equipment and services are among the fastest growing areas of world trade, the United States' balance of trade in telecommunications equipment has fallen significantly in recent years—from a surplus of $1 billion in 1980 to a deficit of over $600 million in 1984. In 1985, projections indicate the U.S. trade deficit in telecommunications equipment will reach $1.1 billion.

This deficit in telecommunications equipment trade is the result of a rapid increase in imports into the United States that greatly exceeds the increases in exports by U.S. suppliers to foreign countries.

The increase in imports into the U.S. is in part a result of the open nature of the American telecommunications market.

The recent decline in the rate of growth of U.S. exports in telecommunications equipment is in part a result of trade barriers in foreign countries that are characterized by pervasive government intervention (including restrictive practices governing market access and governmental favoritism of indigenous foreign suppliers).

Open and unrestricted access to foreign markets is essential to the continued health and growth of the U.S. telecommunications industry and the economy in general. Moreover, the international competitiveness of the telecommunications industry is critically necessary to assure continued research and development of innovative telecommunications equipment and services, to preserve employment opportunities in the U.S., and to maintain efficient state-of-the-art telecommunications networks.

The provision of universal telephone service at reasonable rates for all Americans is closely linked to the continued economic growth of the domestic telecommunications industry.

The continued economic growth and international competitiveness of the United States telecommunications industry is important and vital to the long-term research and development projects and programs of the United States telecommunications industry, the rapid development and introduction into the marketplace of new and innovative telecommunications equipment and services for American residential and business telecommunications users, the development of efficient, reliable, and state-of-the-art telecommunications networks to serve the needs of American telecommunications consumers, and the maximizing of employment opportunities for United States workers in the telecommunications industry.

While negotiations should be continued, significant efforts have been made and some progress has been achieved by United States negotiators to open the Japanese telecommunications market to United States suppliers.

Significant efforts to open other foreign telecommunications markets to U.S. suppliers must be given equal priority by the United States.

Negotiated access to foreign telecommunications markets for U.S. suppliers should be the means to achieve increased exports in telecommunications equipment and services.

The Committee wishes to emphasize that the legislation's fundamental objective of obtaining open and unrestricted access to foreign markets in telecommunications equipment and services should be achieved by negotiation, wherever possible.

U.S. policies should be directed to opening up foreign markets and not the closing of domestic United States markets.

Unless negotiations between the United States and a country to achieve open market access in that foreign country for United States telecommunications suppliers are successful, the United States should take action to restrict open access to the United States telecommunications market to foreign suppliers of that country as a means of achieving an open global market for telcommunications trade.

The Committee finds that negotiations to achieve this objective may not be successful unless it is clear to foreign governments that enforcement actions will be taken if barriers to U.S. exports are not withdrawn. At the same time, the Committee understands that enforcement action must be properly directed so as to maximize their effect in opening foreign markets and minimize adverse effects on businesses and consumers in the U.S.

(b) Purpose

The legislation's fundamental purpose is to identify and eliminate barriers to, and distortions of, international trade affecting United States suppliers of telecommunications equipment and services in interstate and foreign commerce, which will increase employment opportunities in the United States telecommunications market.

Section 3—Definitions

Section 3 sets forth the pertinent definitions to the bill.

"Foreign supplier" is defined as an entity whose corporate headquarters, the primary control, or the operations of which are located or based in a foreign country. This definition does not include the American subsidiaries or affiliates of a foreign corporation, but it does include foreign subsidiaries or affiliates of American corporations.

"Equivalent telecommunications market access" is defined in a manner that does not require a foreign telecommunications market to be a mirror image of the U.S. market. Instead, the bill defines market access in a way that is intended to measure whether United States suppliers have opportunities to export telecommunications equipment and services from the U.S. to a foreign country on a basis that is "substantially equivalent" to the opportunities that foreign suppliers of that country have in providing telecommunications equipment and services in the United States. These opportunities should be measured by the extent of barriers for entry and participation in the telecommunications market of that country.

The Committee intends that the term "equivalent telecommunications market access" be construed so as to include the opportunities for United States suppliers to provide telecommunications equipment and related services to any provider of international satellite facilities that are substantially equivalent to the opportu-

nities afforded to foreign suppliers of such equipment and services. In this regard, the Committee intends that the FCC and the Secretary shall consider that equivalent telecommunications market access to procurement of international satellite facilities is effectively denied to U.S. suppliers whenever the foreign entry rights of a provider of international satellite facilities are expressly and effectively made contingent by law, regulation, government decree or other regulatory action upon the provider using equipment or related services provided by foreign suppliers.

The term "telecommunications market access enforcement action" is defined in the bill to mean any action which restricts or denies the provision of telecommunications equipment in the United States by foreign suppliers, or establishes terms and conditions on the providing of such equipment in the United States by such suppliers and which is within the authority of the Commission under the Communications Act of 1934 (whether or not the Commission is otherwise exercising such authority) or under section 208 of this Act. It does not apply to actions relating to the provision of telecommunications equipment by domestic U.S. suppliers, nor the provision of telecommunications services.

The definition of the term "telecommunications equipment" encompasses two categories of equipment. The first category is equipment which is primarily designed for use in providing or receiving telephone services and which the Commission has the authority to regulate (in whole or in part). This part of the definition includes customer premises, switching and transmission equipment, and is not limited to that equipment which might be covered by an existing FCC registration program.

The second category is equipment which is used in providing telecommunications services and to which the authorization or registration provisions of part 2, 15, or 68 of title 47, Code of Federal Regulations, apply. This part of the definition includes equipment not traditionally considered "telephone equipment" such as land mobile radio, pagers, and beepers. However, equipment not used in providing telecommunications services such as garage door openers is not included. Nor is it the Committee's intention that this definition cover items that are properly considered computer products covered in Schedule 6, Part 4, Subpart G of the Tariff Schedules of the United States Annotated.

The term "provider of international satellite facilities" means any person who makes available, on a common carrier or private contract basis, space segment facilities for transmissions or communications between any point in the United States and any point outside the United States, other than an incidental transborder transmission or communication. This term includes any private U.S. firm or any foreign supplier authorized by the FCC pursuant to the Report and Order in CC Docket No. 84-1299 to sell or lease space segment capacity to carry transmissions into or out of the United States. The term also includes Comsat, the U.S. signatory to the International Telecommunications Satellite Organization (INTELSAT) which currently carries satellite communications between points within the United States and points outside the U.S.

TITLE I—ACTIONS NOT REQUIRING PRESIDENTIAL DETERMINATION

Section 101—Procurement by providers of international satellite facilities

Section 101 establishes that United States policies should be directed to securing a fair and equal opportunity for the United States satellite industry to provide spacecraft equipment, launching vehicle equipment, and ground equipment with respect to any provider of international satellite facilites. The Committee intends this policy to cover the same range of equipment and related services as is described in the FCC's Report and Order CC Docket 84-1299 (*Separate Satellite Decision*).

The requirements of section 101 are consistent with Administration and Commission policy in the area. In its White Paper on new international systems, the Administration stated:

> The United States would oppose any initiative by foreign administrations which would discriminate against U.S. aerospace firms. (Senior Interagency Group on International Communication and Information Policy, "A White Paper on New International Satellite Systems," March 1985, p. 42.)

In its *Separate Satellite Decision,* the Commission stated:

> We will, however, require, as a condition in the authorization orders, separate satellite system operators to file any operating agreements they enter into with foreign entities with the Commission and will reconsider the authorizations of satellite system operators who enter an operating agreement with satellite procurement restrictions.

Section 101 codifies the policies with respect to satellite procurement in the Administration's White Paper and in the FCC's *Separate Satellite Decision.* It is not intended to reopen the debate concerning alternative satellite systems or to impede the development of a more competitive international satellite market. The Committee supports the efforts of the Administration and the FCC to foster the development of competition in the international telecommunications market. The Committee intends to supplement existing pro-competitive policies by ensuring that any new satellite systems and the existing provider of international satellite facilities will establish and maintain procurement practices that treat U.S. suppliers fairly.

Section 101(a) establishes a requirement that any construction permit, license, or operating authority awarded by the Commission to any provider of international satellite facilities (other than transborder facilities) for any such facilities shall be subject to conditions that (1) the provider must file with the Commission any operating agreements entered into by such provider with any foreign entity and (2) the Commission may reconsider any award of such permit or authority if such an operating agreement contains satellite procurement restrictions.

The Committee intends that the term "operating agreement" be construed to include cases in which restrictions are imposed through foreign law, regulations, or orders which are not incorpo-

rated into any document labeled "operating agreement" but which form part of the legal framework governing the operating agreement or incorporated therein by reference. These foreign laws, regulations, or orders must be filed. Amendments to operating agreements must also be filed.

Subsection 101(b) provides that the Commission "shall reconsider" any permit or authority awarded where it finds that a foreign government has imposed satellite procurement restrictions. The Committee believes that the imposition of satellite procurement restrictions by foreign governments is an unfair trade practice and is contrary to the U.S. public interest. When the Commission finds that a foreign government has imposed restrictions of this type, the Commission must reconsider, and, after reconsideration, may revoke or suspend, any permit, license or authoirity previously awarded until these restrictions are withdrawn, or may take such other action as is appropriate.

Subsection 101(c) specifies four factors that the Commission shall take into account when reconsidering an authorization involving an operating agreement containing procurement restrictions. These factors require examination of the impacts of the restrictive operating agreement and of the satellite facility on (1) foreign policy, (2) national defense and security, (3) exports from the United States of telecommunications services and equipment, and (4) the ability of United States companies to participate in worldwide commerce through use of international satellite telecommunications facilities.

In light of the legislation's central policy mandate requiring that U.S. suppliers be granted equivalent telecommunications market access, continued approval of a permit, license, or authority involving an operating agreement containing procurement restrictions that deny substantially equivalent market access to U.S. suppliers could be justified only by an examination of the particular circumstances involved which showed that in this particular case the benefits of continued approval outweigh the costs of unfair procurement restrictions.

Subsection 101(d) states that the reconsideration required pursuant to subsection (c) shall be conducted in accordance with Commission rules and policy. Subsection 101(e) requires the Commission to consult with the Secretaries of State, Commerce and Defense in making the determination required under Subsection 101(c). Subsection 101(f) states that any agreements filed with the Commission that are confidential shall be treated as commercial information that is obtained from a person and that is privileged and confidential.

Section 102—Telecommunications equipment certification

Subsection (a) provides that the purpose of Section 102 is to promote equivalent telecommunications market access by providing for a fair and effective method of certification regarding compliance of telecommunications equipment with such standards as the Commission has established or may establish under the Communications Act of 1934 that takes into account compliance methods in use where such equipment is manufactured. This section shall not be construed to require or encourage the FCC to establish perform-

ance or reliability standards for network equipment such as switches.

Subsection (b) provides that in the case of telecommunications equipment the manufacture or assembly of which occurs on or after March 1, 1987 in a foreign country, any certification of compliance with the standards and procedures established by the Commission for such equipment shall not be complete unless it is accompanied by a declaration that such foreign country has certification procedures substantially similar to those in force in the United States. The provisions of this section would apply only to equipment manufactured or assembled after March 1, 1987, thereby allowing a period of time within which the investigations by the Secretary of Commerce and actions by the President required under Title II could take place.

The mandated declaration must state that the country from which the equipment originates accepts American equipment entering that country with a certification that the U.S. equipment conforms to the standards of that country. The declaration must provide assurance that no further testing, inspection or reporting is required beyond that required by the United States for comparable equipment. In addition, the declaration must state that foreign certification procedures do not impose a greater burden than those established by the Commission under the Communications Act of 1934.

If such a declaration is not provided, the Commission must verify that the equipment complies with standards and procedures established by the Commission. In this case, the Commission shall develop a designated type approval system in consultation with the Secretary of Commerce.

Any designated type approval system developed by the Commission should be approximately comparable to the system used by the country in which the manufacturing or assembly occurs, for determining whether American-made equipment conforms to that country's standards. The costs incurred in implementing such a system shall be recovered by fees established by the Commission.

Should the Commission, in consultation with the Secretary, determine that there is probable cause to believe that the required declaration made by a manufacturer of telecommunications equipment is inaccurate, or that circumstances have changed in such a way as to make the declaration inaccurate, the Commission may require that the equipment be verified under the designated type approval system discussed above.

It is not the Committee's intention to place decision-making authority with respect to trade policy at the FCC. The trade policy decision is embodied in this section of H.R. 3131. This trade policy is that foreign countries that persist in denying U.S. suppliers access to their telecommunications markets through burdensome certification procedures shall face comparably burdensome procedures in certifying that their telecommunications equipment meet the standards established by the FCC. The FCC, in consultation with the Secretary of Commerce, merely implement this trade policy. This section does not authorize them to make further trade policy.

The FCC is required to consult with the Secretary of Commerce regarding any certification program established under this section. Moreover, should the Secretary find, within 60 days after Commission action under the verification process provided in this section, that the benefits of access to the telecommunications market of such country by U.S. suppliers outweigh the burdens on American suppliers to comply with the requirements of that country, the verification by the Commission shall not be required. Such a finding by the Secretary assures that there will be no imposition of sanctions without the benefit of careful consideration. If the Secretary does not renew this finding within two years with respect to any Commission determination regarding verification requirements for any foreign supplier, the verification requirement shall automatically become effective without the need for any further FCC action. However, should the Commission remove the verification requirement, the Secretary is no longer required to review such finding.

Subsection (c) exempts telecommunications equipment from the verification process where the Commission determines, in consultation with the Secretary, that the potential market in such country for American suppliers of telecommunications equipment is not, and will not be, substantial. In making this determination, the Commission may take into account the conclusions reached by the Secretary under section 201 regarding the substantial nature of telecommunications markets in foreign countries.

Subsection (d) provides that the fees established under this section, shall be fixed by the Commission prior to the beginning of the calendar year. The fees collected shall be available, to the extent provided in advance by an appropriation Act, for use by the Commission in administering a designated type approval system established under this section.

Subsection (e) specifically defines the term "designated type approval system." For purposes of this section, designated type approval system means a method of verifying compliance with standards for telecommunications equipment evaluated by or on behalf of the Commission by testing, inspection, test data review, or other methods.

TITLE II—ACTIONS REQUIRING PRESIDENTIAL DETERMINATION

Section 201—Finding by the Secretary

Paragraph (a)(1) requires that by August 1, 1986, the Secretary of Commerce shall commence an investigation to identify those foreign countries denying substantially equivalent access to United States telecommunications suppliers. This timeframe allows an opportunity for the President to engage in negotiations to open foreign markets. Any foreign country in which the potential market for particular equipment or services is not substantial for U.S. suppliers may be excluded from this mandatory investigation.

Paragraph (a)(2) requires that notice of the investigation must be published and an opportunity for presentation of views including a public hearing must be provided within 30 days after the publication of the notice of the investigation. The Secretary shall also consult with appropriate Federal agencies and committees of Congress.

Paragraph (a)(3) directs the Secretary to evaluate the extent to which United States manufacturers of international telecommunications satellite equipment are precluded from supplying such equipment by reason of procurement restrictions imposed by a foreign government on providers of international satellite facilities. The results of this evaluation are to be transmitted to the Commission which, among other things, may consider them in reevaluating permits, licenses or other authorities issued to provider of international satellite facilities.

The Secretary has been directed to give special attention to international telecommunications satellite equipment because of the recent policy actions on alternative satellite systems. The Committee does not intend in any way to reopen debate concerning this policy or to disturb the current trend toward a more open and competitive international communications market. However, foreign governments with strong industrial development policies may attempt to condition the entry rights of new satellite providers on the procurement, without regard to market factors, of foreign-origin equipment or related services. The Committee believes that any such limitation would be an unfair trade practice and could substantially limit the benefit to consumers of the alternative satellite policy which is premised on maximizing free and open competition.

The special emphasis the Committee has placed on international telecommunications satellite equipment in Subsection 201(a)(3) is not intended to condone governmentally-mandated procurement restrictions that are inimical to U.S. interests in other international communications facilities. The Committee believes that U.S. policy should be directed to ensuring a substantially equivalent competitive opportunity for all U.S. manufacturers of international telecommunications equipment.

Subsection (b) provides an alternative procedure for triggering Administration action to open up foreign markets by allowing any interested person to petition the Secretary to determine that a foreign country is not providing substantially equivalent telecommunications market access. The Secretary must consider the petition and decide whether or not to investigate. If the Secretary decides that the petition does not warrant an investigation, an explanation of the reasons for the denial must be submitted to the petitioner as well as Congress, and published in the Federal Register.

Subsection (c) sets forth the procedures to be followed in an investigation that is triggered by the petition process.

Subsection (d) requires the Secretary within 60 days of publishing notice of the decision to investigate a market, to publish a preliminary finding as to whether a foreign market is providing substantially equivalent market access, as well as preliminary recommendations for any enforcement actions to be taken. The Secretary is encouraged to be as specific as possible in identifying the nature and extent of any barriers and may note those sectors of a particular market in which there is no evidence of a denial of substantially equivalent access. Any interested parties will then be given 60 days to comment on the preliminary finding.

Subsection (e) requires the Secretary to consider all the comments received and make a final decision regarding the investiga-

tion within 120 days after publishing the decision to investigate. A recommendation as to any action to be taken must be submitted to the President and published in the Federal Register.

In making a determination concerning equivalent telecommunications market access, the Secretary is directed to be as specific as possible in identifying both the nature of such barriers and the sectors of foreign markets for telecommunications equipment or services where such barriers exist.

Subsection (f) provides certain key factors that the Secretary must consider when investigating access to a foreign telecommunications market. The Secretary must consider: (1) the marketing efforts and the competitiveness of the prices of U.S. suppliers in the particular foreign market; (2) the success of U.S. suppliers in gaining access in the foreign country, compared to the success of U.S. telecommunications suppliers in other foreign countries and in the U.S.; and, (3) the impact on employment in the U.S. telecommunications industry, including employment in the U.S. related to the design, marketing, installation, and servicing of telecommunications equipment.

Subsection (g) states that the denial by a foreign country of equivalent telecommunications market access shall be considered as unjustifiable, unreasonable, or discriminatory and a burden or restriction on United States commerce.

Section 202—Presidential determination

Subsection (a) provides that if the Secretary determines that a foreign country is denying market access to U.S. suppliers that is substantially equivalent to the access afforded the foreign suppliers in the U.S., the President must determine the proper action to achieve equivalent access. Within 60 days of the Secretary's finding, the President must direct the FCC to implement the appropriate action. The President must take some telecommunications market access enforcement action under this section, unless he takes other market opening actions under section 204.

In determining the appropriate market access enforcement action to be implemented, the President may be selective with respect to product and foreign supplier. The Committee believes that substantial progress in opening foreign markets to exports of U.S. telecommunications equipment depends on the certainty that strong action will be taken unless U.S. suppliers are accorded access which is substantially equivalent to that provided to foreign suppliers in U.S. markets. The Committee emphasizes that this section requires the President to take action if access is not achieved and notes that this section allows actions to be developed that will reduce adverse impacts in the U.S.

Subsection (b) states that the President should initiate negotiations with our foreign trading partners, using already existing statutory authority, to obtain equivalent telecommunications market access exists for U.S. suppliers. It is not a new authority. This subsection emphasizes the Committee's view that facilitating negotiations is the preferred way of resolving our telecommunications trade problems.

Nothing in subsection (b) affects, in any way, the requirements contained in the bill that the President take telecommunications

market access enforcement actions or other market opening measures according to the time frames provided in the bill. In addition, this subsection imposes no preconditions for the implementation of any provision of the bill in the time frame set forth in the bill.

Section 203—Federal Communications Commission implementation

Section 203 requires the FCC to implement the action directed by the President within 30 days after the President's determination. This section refers only to telecommunications market access enforcement actions. It does not authorize the President to direct the FCC to take action with respect to the provision of telecommunications equipment by domestic U.S. suppliers, or to the provision of telecommunications services. Before implementing these measures, the FCC must provide public notice and an opportunity for public hearing during the 30-day period.

Section 204—Circumstances under which action not required

The President would not be required to implement action through the FCC if he instead took action under section 301 of the Trade Act of 1974. Under the Trade Act, the President could: (1) suspend or withdraw from a trade agreement with that country; (2) impose duties or other import restrictions on telecommunications equipment or services from that country; (3) restrict the terms of access authorizations from telecommunications suppliers from that country; or, (4) deny authorization to foreign suppliers of that country.

This section provides the President with the option of implementing enforcement actions through the FCC or relying on existing trade remedies, or both. As under current law, the President may use discretion in deciding what enforcement actions to implement. He must, however, take some action in response to a finding that a foreign country is not providing substantially equivalent telecommunications market access.

Section 205—Action under this act not exclusive

Section 205 makes clear that the President's actions are not limited to the authority granted by Sections 202(a) and 203. Instead, the President may in addition take steps under any other law to achieve equivalent telecommunications market access.

Section 206—Report

Section 206 requires that the President inform the Congress and publish in the Federal Register any action to be taken along with the objectives to be achieved. If the President's action is different from that recommended by the Secretary of Commerce, the President must include in the report an explanation for the difference.

Section 207—Monitoring the effect of actions

Subsection (a) requires the Secretary to review annually an action taken under Title II in order to determine whether the action is achieving equivalent telecommunications market access and to analyze the action's effect on interstate and foreign commerce. The Secretary must report these findings to the President and Congress.

If the President finds that the action is achieving equivalent telecommunications market access, the President can suspend or modify the action. The authority granted in this section to suspend enforcement actions taken under Title II does not authorize the President to suspend or modify any of the trade-related sanctions which the FCC may impose under sections 101 and 102 of Title I.

Subsection (b) provides that if the President suspends or modifies a market access enforcement action, or takes further action, he must notify Congress, provide an explanation of the suspension, modification, or further action, and publish notice in the Federal Register.

Subsection (c) requires that in addition to the annual review of the effectiveness of enforcement actions, the Secretary must annually review the markets of those countries that were excluded from the initial investigation on the basis that the potential market in those countries would not be substantial. If after review, the Secretary finds that a country has a substantial market for U.S. equipment and services, the Secretary must conduct an investigation of that country.

Section 208—Authority to take telecommunications market access enforcement actions

Subsection (a) gives the FCC authority to implement any telecommunications market access enforcement action related to the provision of telecommunications equipment by foreign suppliers in the United States which the President determines to be necessary or appropriate under this Act. This subsection does not authorize the FCC to take any action with respect to domestic U.S. suppliers of telecommunications equipment or with respect to suppliers of telecommunications services.

Subsection (b) requires the Commission, within 9 months after the date of enactment of Title II of this Act, to issue regulations setting forth the procedures to be used in implementing telecommunications market access enforcement actions. To the extent practicable, these procedures shall be consistent with the procedures generally applicable under the Communications Act of 1934.

Subsection (c) permits the Commission to identify specific types of enforcement actions which may be available to the President. However, the President's discretion will not be limited to the options set forth by the FCC.

Section 209—Effective date

Title II of this Act takes effect on July 1, 1986, except that section 202(b), which states that the President should enter into negotiations regarding telecommunications market access, and section 208(b), which requires the FCC to issue regulations concerning telecommunications market access enforcement actions, shall take effect upon the date of enactment of this Act.

ADDITIONAL VIEWS ON H.R. 3131—TELECOMMUNICATIONS TRADE ACT

Devising solutions to the deteriorating U.S. telecommunications equipment balance of trade is a multifaceted and complex task. One piece of the puzzle, unfair treatment of American telecommunications equipment companies, is addressed in H.R. 3131. This bill represents a measured and thoughtful response to one major aspect of the telecommunications trade problem.

However, other impediments exist to correcting our telecommunications trade imbalance—impediments imposed and sanctioned by the U.S. Government. We believe a comprehensive view of the trade issue is needed in order to develop an effective policy response. Toward this end, we want to highlight some additional, domestically-imposed impediments to improving this country's telecommunciations trade imbalance.

The AT&T Consent Decree, and the accompanying line-of-business restrictions imposed on the Bell Operating Companies, is one reason why the U.S. telecommunications trade situation has reversed from a surplus to a deficit over the last three years. The Bell companies' line-of-business restrictions—the ban on manufacturing telecommunications equipment and the ban on the provision of information services—have serious negative trade implications. In the years ahead, these restrictions will be an ongoing impediment to improving the trade situation in this sector of the domestic economy. Lifting these restrictions would significantly improve the telecommunications trade deficit by enhancing export opportunities and by displacing current imports.

At the time the Consent Decree was entered, these restrictions were imposed to foster competition in the information services and equipment manufacturing industries. The Bell companies were viewed as the monopoly carriers of local telecommunications services.

The Decree envisioned a local telephone exchange environment far different from the realities of today's marketplace. The Bell companies no longer have "bottleneck" control over local telephone company facilities. Competition in the local telephone exchange mounts daily, while additional international competitors in the information services and equipment business grow ever stronger. These unintended consequences of the Decree require a reexamination of the line-of-business restrictions on the Bell companies.

By prohibiting the Bell companies form using their expertise to enter into domestic manufacturing, over 50% of the telecommunications asset base in this country is effectively barred from being used to provide jobs for American workers. Not only are we exporting jobs s a reslult of these restrictions, but also significant amounts of the telecommunications research and development are being diverted offshore.

The telephone ratepayers have paid for computer hardware and software capabilities of the Bell companies, but they are denied the benefits of these capabilities. The ban on information services forces the computer "intelligence" of the Bell company networks to be displaced to the customer telephone-related equipment market. Answering machines, "smart" telephones, and other such equipment are providing services that could be equalled or exceeded by the Bell companies. The information services ban adds to the intense and growing competition and denies most customers the benefits of the information age at an affordable price.

The policy of encouraging technological developments outside the local public network provides an unnecessary market advantage to foreign suppliers. This advantage can be reduced by allowing the Bell companies more freedom to upgrade their networks.

The fact that the ban on information services no longer serves the public interest was identified by the Commerce Department's National Telecommunications and Information Administration (NTIA). After citing a host of problems associated with the ban on information services, NTIA concluded in a report released in July 1985, "To avoid continuation of these problems, and what appears to be curtailment of both competition and customer service options, the AT&T consent decree's prohibitions should be eliminated." Later in the report NTIA reiterated, "The restriction on information services (excluding electronic publishing) will be increasingly difficult to justify, is adverse to the general public interest, and should be eliminated now."

A major infirmity of the consent decree is its inflexibility to the changing circumstances buffeting the industry. For example, no one at the time the decree was entered contemplated its repercussions have been felt, the decree is cumbersome and rigid, unable to adjust to the new realities of the marketplace.

The Senate Finance Committee's Report on S. 942, the companion legislation to this bill, also recognizes the unanticipated effects of the consent decree and the opportunities some fine-tuning of the divestiture may yield:

> References in the legislation to the imbalance in trade opportunities accruing from the liberalization and restructuring of the U.S. telecommunications market reflect the Committee's deep concern about the unanticipated trade effects of telecommunications deregulation and divestiture in this country. While the purpose of the legislation is not to "reregulate" the U.S. telecommunications market, it is intended to harness the trade effects of deregulation and divestiture in this section—namely, the unilateral opening of major segments of the market to imports—as leverage to achieve a more open world trading system in telecommunications.

While that legislation, as well as this bill, deals with an albeit important aspect of trade, they could "harness the effects of deregulation" more fully if the bills went beyond opening up foreign markets and lifted existing restrictions levied on our own.

In part, this problem is rooted in the nature and charter of the Justice Department itself. It is a law enforcement agency, lacking

the institutional resources to analyze broader issues such as trade. Because that agency's institutional focus is on antitrust matters, it does not take these larger considerations into account. Reforms in our domestic telecommunications policy are needed to resolve our trade difficulties.

The FCC is the regulatory agency with an institutional perspective capable of dealing with broader issues such as the relationship between telecommunications policy and trade. In its Computer III inquiry (reviewing the FCC's earlier Computer II decision, which bars the Bell companies from offering any data processing or other enhanced information services through the local telephone network) the FCC observed that some of its previous actions have had unanticipated consequences and require reconsideration. The Commission stated in its notice of proposed rulemaking:

> There appear to be potentially valuable services that could be deployed with relative ease and fairly minimal additional investment. Alternatives now available are less efficient, more costly, or more difficult to employ.

The FCC has consistently taken the view that the AT&T consent decree should not restrict the activities of the Bell companies. In letters FCC Chairman Mark Fowler sent to House Republican Whip Trent Lott, Commerce Committee Chairman John Dingell, and Commerce Committee Member Tom Tauke, Chairman Fowler stated:

> Serious questions exist about whether these restrictions serve the public interest. The Commission as a whole and I, individually, consistently have held the view that the MFJ should not restrict activities of the regional Bell companies. The Commission first made this position known to the divestiture court in amicus briefs commenting on the then proposed settlement. We continue to believe that decisions about Bell company participation in competitive arenas should be made by the FCC under the Communciations Act public interest standard.

The importance of lifting the consent decree restrictions was recently highlighted by respected telecommunciations analyst Jay McCabe of the firm Donaldson, Lufkin & Jenrette in a report set forth as an attachment to these views. Commenting on how the eventual lifting of the restrictions will provide domestic and international trade benefits, McCabe concludes, "* * * to relax the MFJ is not a move to recreate the Bell System in terms of a sole supplier, it just gives seven of the largest telecommunications companies in the world a chance to compete a little better * * *."

Although lifting such restrictions would be a major step forward (both internationally and domestically), concerns have been raised that doing so now on this bill would add some measure of precedural and substantive controversy. However, as our telecommunications trade deficit grows it may overshadow those concerns. Other steps beyond the consideration of H.R. 3131, are being taken.

Lifting the restrictions on the Bell companies has been identified as a positive step for this country's balance of trade and for other,

more fundamental, public policy reasons by other proposed legislation. Three bills have been recently introduced on the subject:

(1) H.R. 3522, the Trade Partnershp Act, which includes a provision allowing the Bell companies to manufacture telecommunications equipment domestically, upon approval of the FCC and the Department of Commerce, and which is sponsored by Messrs. Michel, Lott, Broyhill, and 130 other Members.

(2) H.R. 3687, the Telephone Ratepayer Protection and Technology Promotion Act of 1985, which is sponsored by Mr. Wyden and which calls for State regulatory commissions to approve the entry of the Bell companies into manufacturing and information services, subject to certain "rate-payer protection" allocation methodologies being approved.

(3) H.R. 3800, the Telecommunications Equipment and Information Services Act of 1985, which allows the Bell companies to provide information services and manufacture equipment and which is introduced by Messrs. Tauke, Swift, Slattery, Nielson, Lott, Matsui.

A study of the impacts of the Consent Decree, to be conducted this year by the Department of Justice, could result in positive and worthwhile changes to the Decree. It is starting with the correct perspective, since a Justice Department official announced that the Department "will not fall into the trap of enforcing fixed rules and regulations beyond their useful life" and that "in telecommunications, as well as other industries, markets generally function best when free of regulatory constraints". He also acknowledged that the Department of Justice is "very much aware of the rapid changes that are occurring in the telecommunications industry." The concern, however, is that the current regulatory mechanism will be unable to keep up with those rapid changes.

We are also pleased that the Telecommunications Subcommittee will be holding hearings on this subject early next year, and hope that prompt action can be taken thereafter. The Subcommittee has long been a guardian of maintaining universal telephone service at affordale rates. Both H.R. 3687 and H.R. 3800 recognize that new business ventures of a local Bell company should contribute their share of the company's joint and common costs. We must address this aspect of any changes in the Consent Decree when the Subcommittee considers these issues.

Complicated problems call for innovative solutions. H.R. 3131 serves an important purpose and is a necessary first step toward ameliorating this country's telecommunications trade imbalance which we strongly support. However, other forward-looking steps aimed at unleashing all the competitive potential in this country must be taken. Telecommunications is a "sunrise" industry. U.S. technological superiority in this field must be maintained.

By taking the next logical step beyond H.R. 3131 and lifting domestic restrictions that hamper international competitiveness, U.S. superiority in this field will be maintained and the telecommunications trade balance will be positively affected.

AL SWIFT.
TOM TAUKE.

SUPPLEMENTAL VIEWS TO H.R. 3131 BY REPRESENTATIVE MATTHEW J. RINALDO

As the Ranking Republican Member of the Subcommittee on Telecommunications, Consumer Protection and Finance, and as a principal sponsor of the Telecommunications Trade Act of 1985, I want to join my colleagues in urging swift passage of this bill.

Over the past year, two subcommittees of the Energy and Commerce Committee have held hearings on the issue of U.S. telecommunications trade. This hearing record has raised concerns among members on both sides of the aisle who are concerned not only about American industry and American jobs, but about basic fairness in trading with our foreign partners. This issue of fairness is highlighted again and again in testimony received by the Committee, especially in connection with our trade relations with Japan.

In 1984, American manufacturers sold $110 million worth of telecommunications equipment in Japan compared with Japanese exports to the United States of $1.5 billion. This deficit is four times higher than that which existed in 1980, when the U.S. trade deficit with that country was $340 million. Much of that imbalance is due to Japanese policies which make it exceedingly difficult for American companies to do business in that country, while Japan allows Japanese companies to amortize the fixed costs of production as well as research and development in sales in their domestic market. This not only results in an indirect subsidy of their exports, but also means that developing nations closed out of the significant Japanese market direct a larger proportion of their energies to the United States, where few barriers to trade exist.

It should be noted that the Administration recently responded to these allegations of unfairness on the part of Japan. On December 6, Secretary Malcolm Baldrige announced that the Department of Commerce would initiate an investigation into whether Japan's semiconductor industry has been dumping 256K dynamic random access memory components (DRAMS) in the U.S. The price of these semiconductors has fallen from $18–20 per unit in 1984, to an average of $3.50 in 1985 and to $2 recently. The Department noted that 5,000 workers in the U.S. have lost their jobs and the industry faces a potential loss of over $900 million over the lifetime of the product.

While the Administration's action should be commended, it does not remedy the more fundamental inequities in telecommunications trade that are addressed by H.R. 3131. I agree with those who believe that negotiations, not legislation, are the appropriate mechanism for rectifying trading difficulties, and this legislation provides for an 18-month period during which the Administration can enter into negotiations with foreign nations. This period would be used, not to close American markets to foreign companies, but to

open foreign markets to American companies. That is the essence of fair trade.

This principle underlies an amendment which I offered and which was adopted by the committee. The Rinaldo amendment requires the FCC to establish special certification requirements for telecommunications equipment imported from countries that have more burdensome certification requirements than the U.S. has for the same kind of equipment imported from the foreign country. This policy will allow foreign products to compete in this country just as American products must compete abroad.

As late as 1982, the United States had a $275 million trade surplus in telecommunications equipment. Yet just one year later—after the divestiture of AT&T—the U.S. imported $520 million more in equipment from abroad than it exported; by 1984, this deficit had surpassed $600 million.

The United States has only begun a new era of telecommunications in the wake of the AT&T divestiture, and we should not burden our industry by forcing it to compete unfairly with foreign manufacturers. The record shows that American companies can and want to compete. Last year, U.S. manufacturers spent $3.8 billion on research and development efforts.

H.R. 3131, with the Rinaldo amendment, provides an effective, reasonable approach to ensuring that trade in telecommunications will be fair and even-handed. It deserves the support of every member of Congress.

MATTHEW J. RINALDO.

○